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EXAMINER

OCAMPO, MARIANNE S

ART UNIT PAPER NUMBER

1723

DATE MAILED: 12/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/455,664

Applicant(s)

MELGAARD ET AL.

Examiner

Marianne S. Ocampo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 26 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 2-7, 9-11, 13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 13 is/are allowed.
- 6) ☐ Claim(s) 2-7, 9-11 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 14 and 7 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Claim 14 recites the scale collector comprising a second mesh material different from the first mesh material (of the filter). Claim 7, which depends from claim 14, adds the limitation that the scale collector comprises a compacted mesh block. It seems to imply that the scale collector comprises not only that of a second mesh material but another compacted mesh block. **This is considered new matter.** The original specification and the claims do not provide sufficient support for this embodiment. There is however, support for the scale collector comprising a compacted mesh block in pages 4 - 5. In other words, the second mesh material being claimed in the base claim 14 is actually the compacted mesh block.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2 – 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a). Claim 2 recites the limitation “a frame of the filter” in line 3. Is this frame the same frame already mentioned in claim 14, or the claim adding another frame element of the filter? If so, the letter “a” should be changed to “the”.

b). Claim 6 recites the limitation “said mesh material” in line 3. Which mesh material is it referring to, the first mesh material or the second mesh material? For examination purposes, the “mesh material” being referred to in claim 6, has been considered to the first mesh material of the filter.

c). Claim 7 recites the limitation “the scale collector comprises a compacted mesh block”. Is the mesh block an additional and different structural element, in addition to the second mesh material already mentioned in the base claim 14?

d). Claim 9 recites the limitation “the structure” in line 2 – 3. There is insufficient antecedent basis for the limitation in the claim.

e). Claims 3 – 5 are dependent claims of claim 2, and therefore they also suffer the same defects since they depend therefrom.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 14, 2 – 4, 6 and 9 – 11 are rejected under 35 U.S.C. 102(e) as being anticipated by O'Flynn et al. (US 6,383,381 B1).

7. With respect to claim 14, O'Flynn et al. disclose a filter for use in a water heating vessel (or kettle, 10) for removing sedimentary material including scale from water, wherein the filter comprises a first mesh material (34) provided with a frame (32, 26) and a scale collector (38) separate from the first mesh material (34) and coupled to the frame (32) by means of fingers or flanges (36) and the scale collector comprising a second mesh material (49) different from the

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first mesh material and having a surface to which scale/particulate matter could be attracted thereto, as in figs. 7 – 8 and 11 – 19. Here what the examiner has considered as scale collector being any mesh material capable of removing scale from water or attracting scale thereto, which would include the cartridge walls (38, 44) with meshed openings (49).

6. Concerning claim 2, O'Flynn et al. also disclose the scale collector/mesh (49) being supported by a carrier member (44, 38, 43) on the frame (32) of the filter (26), as in figs. 7 and 18

7. Regarding claim 3, O'Flynn et al. further disclose the carrier member (43, 44, 38) is detachably mounted on the frame (32), as in the abstract and in page 7.

8. With respect to claim 4, O'Flynn et al. also disclose the carrier member (43, 44, 38) being permanently mounted onto the frame of the filter (25), as in page 7, lines 16 – 20.

9. With regards to claim 6, O'Flynn et al. further disclose the carrier member (43, 44, 38) being situated on a (lower) part of the frame (32) away from the first mesh material (which is situated on the upper part of the frame, as in figs. 7 and 18).

10. Concerning claim 9, O'Flynn et al. disclose the scale collector/mesh (49) being carried on a structure (frame 32 of the filter 26) towards an end thereof which in use in a water heating vessel (10) is closest to the bottom of the vessel, as in figs. 1, 7 – 8 and 18 – 19.

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11. With respect to claim 10, O'Flynn et al. further disclose a water heating vessel (10) including a filter structure according to claim 14 (see paragraph 7 above) removably mounted within the vessel (10) and extending over a water outlet (defined by the spout 24) of the vessel (10), as in fig. 1.

12. Regarding claim 11, O'Flynn et al. also disclose the water heating vessel (10) comprising a kettle, as in the abstract and in fig. 1.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Flynn et al. (US 381) in view of Martindale (US 866,796).

15. With regards to claim 5, O'Flynn et al. fails to disclose the scale collector (in the form of meshed openings/mesh strainer 49) being removably mounted on the carrier member (frame 43, in figs. 14 - 16). Martindale teaches a similar mesh strainer/scale collector (10) to that

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of O'Flynn et al., capable of removing scale in water, wherein the scale collector includes a mesh material/wire fabric (10) and a carrier member (8,9), and the scale collector (10) is removably mounted on the carrier member (8, 9), as in figs. 2 - 4 and in lines 41 - 83 of the specification. It is considered obvious to one of ordinary skill in the art at the time of the invention to modify the scale collector (mesh openings, 49 & frame 43, 44, 38) of O'Flynn et al. by substituting it with the scale collector taught by Martindale, in order to provide an alternative design, as well as improved design for a scale collector which has the ability to remove and replace the scale collecting element (i.e. mesh strainer/material portion) upon clogging for cleaning or replacement thereof, without having to dispose the carrier member, thereby reducing costs of replacing the carrier member upon end of useful life of the scale collecting element (mesh material).

16. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Flynn et al. (US 381) in view of Ida et al. (JP 58-061478).

17. Concerning claim 7, O'Flynn et al. fail to disclose the scale collector comprising a compacted mesh block. Here the term "compacted mesh block" has been defined as "compressed, combined together or formed together into a mesh/fibrous block". Ida et al. teach a compacted mesh/fibrous block (1) being used as a water purifying agent, capable of removing suspended matter (such as scale) present in water, as in page 1 of the Patent (translated) Abstract of JP 58-064178. It is considered obvious to one of ordinary skill in the art at the time of the invention to modify the scale collector (cartridge with meshed openings) of O'Flynn et al. by

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substituting it in lieu of the scale collector (compacted mesh/fibrous block 1) taught by Ida et al., in order to provide an alternative but effective scale removing/collecting element. It is considered obvious that a scale collection in the form of a compacted mesh/fibrous block such as the one taught by Ida et al. would have a longer useful life than a planar mesh material, because it has a greater scale or particulate holding capacity afforded by its configuration.

Allowable Subject Matter

18. Claim 13 has been previously indicated to contain allowable subject matter (see Last Office Action, Paper no. 20, pages 6 – 7).

19. The following is a statement of reasons for the indication of allowable subject matter: the closest prior art is O'Flynn et al. (US 381), Martindale (US 796) and Ida et al. (JP 178). O'Flynn et al., Martindale and Ida et al., alone or in proper combination, have failed to disclose or rendered obvious a filter having the limitation recited in the base claim 13 in particular, having the limitation of the carrier member having a part extending through a bore in the compacted mesh block (forming the scale collector) and the compacted mesh block being rotatable around said part.

Response to Amendments and Arguments

20. Applicant's arguments with respect to claims 14, 2 - 7 and 9 - 11 have been considered but are moot in view of the new grounds of rejection presented above. **This action is non-final.**

21. In response to the arguments regarding the previously applied prior art references, Heiligman and Trably, they have been found persuasive, and those rejections have been withdrawn. Applicant's amendments, in which cancellation of previous base claim 12 in lieu of new base claim 14, necessitated the change and use of newly found prior art, O'Flynn and Martindale and as well as use of previously applied art, Ida et al.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. GB Patents 2,280,596 A (Taylor), 2,261,362 (Taylor) and 2,268,680 (Taylor) and US Patent 790,052 (Dalton et al.) and WO 00/23167 (O'Flynn et al.).

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne S. Ocampo whose telephone number is (703) 305-1039. The examiner can normally be reached on Mondays to Fridays from 8:00 A.M. to 4:30 P.M..

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24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (703) 308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

25. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

MSC
M.S.O.

October 30, 2002

Matthew O. Savage
MATTHEW O. SAVAGE
PRIMARY EXAMINER